

## REMARKS

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

### **I. Amendments and Status of the Claims**

Claims 2 and 3 are requested to be canceled without prejudice or disclaimer.

Claims 1 and 4-10 are requested to be amended. Exemplary support for the amendments to claim 1 can be found in canceled claims 2 and 3. Exemplary support for the amendments to claims 9 and 10 can be found on pages 4 and 5. The amendments to the remaining claims are generally stylistic in nature. Because the amendments do not introduce statutory new matter, Applicants respectfully request entry of the amendments.

Upon entry of the amendment, claims 1 and 4-10 will be pending and subject to examination on the merits.

### **II. Claim Rejections – 35 U.S.C. § 102(b)**

Claims 1-7 stand rejected under 35 U.S.C. § 102(b) as allegedly anticipated by U.S. Pub. Pat. Appl. No. 2002/0126290 to Naya. Applicants respectfully traverse this ground of rejection.

Naya is not prior art to the claimed invention under § 102(b). The present application claims priority to U.K. Appl. No. 0320925.1 filed 6 September 2003, and priority was acknowledged on form PTOL-326 that accompanied the Office Action. Naya was published on 12 September 2002. Because Naya was not published more than one year prior to the priority date of the claimed invention, it does not constitute prior art under § 102(b).

Even if Naya were prior art to the claimed invention,<sup>1</sup> Naya fails to teach or suggest the claimed invention for two reasons, as discussed below.

First, Naya fails to teach or suggest a spectrometer apparatus comprising “a corrective optics device comprising (i) a wedge-shape prism and (ii) a focusing device,” as claimed. Instead, Naya describes a system with a compensating prism 21 located directly adjacent a

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<sup>1</sup> Applicants take no position as to whether Naya is prior art under any other provision.

surface plasmon sensor without any intervening focusing means. Because Naya lacks a focusing means “intermediate the sample supporting surface and the prism,” Naya cannot anticipate the claimed invention, which requires a “focusing device” “intermediate the sample supporting surface and the prism.”

Second, Naya fails to teach or suggest a a spectrometer apparatus comprising “a corrective optics device comprising (i) a wedge-shape prism and (ii) a focusing device . . . such that *the prism is adjacent a focus of the optical system*,” as claimed. Naya’s Fig. 1 clearly shows that the compensating prism 21 is not located anywhere near a focus of the system. Nor does Naya contain any reason to place the prism “adjacent a focus of the optical system.” Thus, Naya fails to teach or suggest the claimed invention.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of this ground of rejection.

### **III. Claim Rejections – 35 U.S.C. § 103(a)**

Claims 8-10 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious over Naya “in view of well known in the art.” Office Action at ¶ 5. Applicants respectfully traverse this ground of rejection.

Naya “in view of well known . . . art” does not teach or suggest the claimed invention for the same reasons discussed above in Section II. Generally, Naya does not teach or suggest “a corrective wedge-shape prism and a focusing lens located between the prism and the window,” as claimed. Instead, Naya describes a very different arrangement. Essentially, Naya discloses that an unfocused shadow-type reproduction of the surface 11a is formed at 21a, and a separate lens 22 is used to form an image of this shadow effect onto a detector 23. The arrangement of Naya would have to be completely changed to arrive at an arrangement similar to that of the claimed invention. Thus, Naya, either alone or in combination with “well known art,” fails to render obvious the claimed invention.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of this ground of rejection.

**CONCLUSION**

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.


The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 295-4758  
Facsimile: (202) 672-5399

By

  
Shaun R. Snader  
Attorney for Applicant  
Registration No. 59,987